

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANGELES CHEMICAL COMPANY, INC., ET
AL.,

Plaintiffs,

v.

MCKESSON CORPORATION, ET AL.,

Defendants.

No. C-06-80343 (EDL)

**ORDER GRANTING MOTION FOR
ORDER SHORTENING TIME**

On January 18, 2007, Plaintiffs served a subpoena on nonparty law firm Squire, Sanders & Dempsey LLP ("SSD"), calling for the production of documents by January 29, 2007. The documents sought by the subpoena included the potentially privileged documents of Defendant McKesson, which SSD had inherited from McKesson's predecessor counsel. SSD served objections to the subpoena in advance of the deadline, and unsuccessfully sought to meet and confer with Plaintiffs on the objections. McKesson, too, objected the subpoena on grounds that McKesson needed time to review the documents and to remove privileged documents before SSD produced the documents. Accordingly, on January 26, 2007, McKesson moved the Court for an order shortening time to hear a Motion for a Protective Order, seeking to postpone the January 29, 2007 production date to allow McKesson more time for review of the documents. On the same date, SSD filed its own Motion to Quash the subpoena, or, in the alternative, Motion for Protective Order. Plaintiffs filed an Opposition to the Motion for an Order Shortening Time and the Motions for a Protective Order on January 30, 2007. See Civ. L.R. 6-3(c). The January 29, 2007 production date passed without compliance with the subpoena.

1 Under the Local Rules, a party may move to shorten time where substantial harm or
2 prejudice would occur if the Court does not change the time. See Civ. L.R. 6-3(a)(3). Here, the
3 harm SSD and McKesson sought to avoid through the Motion to Quash or Motion for a Protective
4 Order was compulsory compliance or unauthorized noncompliance with the subpoena's January 29,
5 2007 production date. Those concerns are less urgent here. When a nonparty witness serves written
6 objections in accordance with FRCP 45(c)(2)(B), within 14 days after service of the subpoena, then
7 compliance with the subpoena is excused until a court order is obtained directing compliance. See
8 FRCP 45(c)(2)(B); Federal Civil Procedure Before Trial §§ 11:2291 and 11:2295. Here, the
9 subpoena was served on January 18, 2007, and SSD served objections before filing its motion on
10 January 26, 2007. See Motion to Quash (Doc. No. 19) at 6. Therefore, SSD is relieved of its
11 obligation to produce documents under the subpoena until the Court rules on the objections.

12 Although Plaintiffs filed an Opposition to the Motion for an Order Shortening Time, that
13 Opposition only nominally opposes shortening time. In substance the filing is an Opposition to
14 McKesson's Motion for Protective Order, which raises an active dispute regarding the asserted
15 privileged status of the documents at issue. Because the best interests of all parties would be served
16 by promptly resolving the discovery dispute, the Court hereby GRANTS the Motion for an Order
17 Shortening Time.

18 Plaintiffs have already filed an Opposition to McKesson's Motion for a Protective Order. To
19 the extent Plaintiffs wish to file an Opposition to SSD's Motion to Quash to raise arguments that
20 were not already addressed in Plaintiffs' Opposition to McKesson's Motion for a Protective Order,
21 Plaintiffs may file an Opposition to Nonparty SSD's Motion to Quash on or before February 13,
22 2007.

23 McKesson may file a Reply in support of its Motion for a Protective Order on or before
24 February 20, 2007. SSD may file a Reply in support of its Motion to Quash on or before February
25 20, 2007. Alternatively, McKesson and SSD may elect to file a joint Reply.

26 The hearing on the pending Motion for a Protective Order (Doc. No. 13) and Motion to
27 Quash or in the Alternative, for a Protective Order (Doc. No. 19) will be held before Magistrate
28 Judge Laporte on **March 6, 2007**, at 9:00 a.m. or as soon thereafter as may be heard, in Courtroom E

of this Court, located at 450 Golden Gate Ave., San Francisco, California, 94102.

IT IS SO ORDERED.

Dated: February 5, 2007

ELIZABETH D. LAPORTE
United States Magistrate Judge